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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,384	12/06/2000	Yasuki Motozawa	AB-1085 US	7422

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EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,384

Applicant(s)

MOTOZAWA ET AL.

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 4-8 10-12 14-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2, 4-6-8, 10-12 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2-5, it is not clear what part of the invention is the portion to be deformed and which part is the separate member, especially in view of the recitation that the portion (to be deformed) allows for control over deceleration of the vehicle room. Also, it is not clear how any disclosed deformable portion of the invention allows for control of deceleration of the vehicle room.

Claim 6, lines 2-3 recite the rigid body supported on a deformable portion of the vehicle body, wherein the rigid body is attached to a member for transmitting a collision load to allow the rigid body to be capable of backward movement. From this recitation, it is not clear what part of the disclosed invention is the deformable portion on which the rigid body is supported and which part is the member to which the rigid body is attached (this appears to be a double inclusion of the same part of the invention in the claim).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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4. Claims 1-2, 6-7, 10 and 14-15 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian Patent 636,693 in view of Vollmer et al (U.S. Patent 4,795,189, both of record).

Canadian '693 discloses a vehicle body including a portion to be deformed at the front of the vehicle (the body portion with the headlight in Figure 1) and a separate member 12 for transmitting collision load (as functionally recited, upon a collision powerful enough to dislodge engine 11 (column 2, lines 55-60) the front supports 12 would be deformed). As indefinitely and functionally recited, Canadian '693's body portion with the headlight allows for control of deceleration of the passenger compartment (i.e., it would have some effect on how the passenger compartment slows in a collision depending on how thick and strong the materials are). Engine 11 is a rigid body or structure attached to the vehicle body supports 12, 12 so as to move backward against brace 28 upon sufficient collision. Seat 22 is supported on the vehicle body so as to be longitudinally movable and includes seat belt 23. However, Canadian '693 does not teach a cable as a power transmission member mechanism transmitting backward movement of the engine to the seat and a guide affixed to the vehicle body around which the cable is drawn back and from which the cable is affixed to the seat. Vollmer et al (189) discloses at column 6, lines 1-5 that cables 15' and 16' may be used to transfer movement of the engine into movement of the seats, in this case tilting them backward. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Canadian '693 to include cables transmitting power from the engine to the seat as taught by Vollmer et al (189) in order to optimize use of forces in an accident (column 2, lines 3-9 of Vollmer et al (189)) and in view of Vollmer et al (189)'s teaching at column 1, lines 45-60 that using cables to activate safety

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devices keeps adaptations at a minimum, is highly efficient and cost effective, and is highly reliable with little structural constraints. In the combination, the cables would be used to move the seats back in keeping with Canadian '693, the primary reference, and Vollmer et al (189) teaches reversing rails or guides 20 which would be included wherever the cable needs to change direction, such as where cables 15' and 16' make right angles behind the seats 27, 28 in Figure 1. Cables 15' and 16' are also drawn back behind the seats in the combination (claims 1-2, 7 and 10). Regarding claim 6, as best understood the supports 12, 12 are deformable portions on which the rigid body is supported as well as (at least) a member to which the rigid body is attached. Also regarding claim 6, the engine in Canadian '693 moves toward an occupant compartment, and Canadian '693's seat 22 is secured to rails 26, 27 so as to be movable longitudinally. In the combination Vollmer et al (189) teaches the cables 15, 16 in sleeves 13, 14 between the engine and occupant compartment and affixed to the seats at portions 15', 16'. Also regarding claim 6, in the combination a guide would be at the right angles of Vollmer et al (189)'s cables 15', 16' behind the seat, the guide would be fixed to the vehicle body in keeping with Vollmer et al (189)'s guides 20, and the cable would be drawn back around the guide adjacent the seat (note Vollmer et al (189)'s teaching at column 2, lines 31-35 that guide means are used for reversing the direction of the cables).

Regarding claims 14-15, Canadian '693's member 12 is deformable after the deformable portion of the vehicle body with the headlight and bumper in Figure 1.

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5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian '693 in view of Vollmer et al (189) as applied to claim 6 above, and further in view of German Patent 19711392 C1 (of record, cited by applicant).

Canadian '693 and Vollmer et al (189) do not teach the cable attached to the seat by means of connecting metal member[s] fixed to a lower surface of the seat. German '392 discloses in Figure 11 cables 61, 62 affixed to member 41.1. Such studs as member 41.1 are conventionally metal studs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Canadian '693 and Vollmer et al (189) to include a metal stud on the seat in view of German '392 in order to secure the cable to the seat. Securing the cable to the lower surface of the seat is an obvious design expedient, as the specification gives no specific purpose or particular reason for where the cable is secured relative to the seat, and the invention would appear to work just as well if the cable is secured to the lower surface of the seat, the rails, etc., so long as the cable pulls the seat back in the combination and is not attached at an aesthetically annoying place.

6. Claims 4-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian '693 in view of Vollmer et al (189) as applied to claims 1 and 9 above, and further in view of German Published Application 1,680,095 (of record).

Canadian '693 and Vollmer et al (189) do not teach a damper stopper specifying the limit of movement of the seat. German '095 discloses a damper stopper comprising shock absorber 7 and the rear support of the absorber for seat 9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Canadian '693 and Vollmer et al

(189) to include a damper stopper limiting seat movement as taught by German '095 in order to reduce shock on the seat occupant.

7. Noting applicant's arguments filed 12/8/03, applicant argues that the combination of Canadian '693 and Vollmer et al (189) contains no motivation to combine and would not result in the claimed invention. However, as noted above, Vollmer et al (189) teaches throughout column 1 that using cables in general in safety systems to protect passengers in a frontal collision is desirable for reliability, minimal modification, and cost effectiveness (Vollmer et al (189), column 1, lines 11-20, lines 45-60). While Canadian '693 is for protection against a steering post and engine, and Vollmer et al (189) is for tilting a seat and moving the steering post, it is noted that the combination does not involve a bodily incorporation of parts, and that nonobviousness cannot be shown by attacking references individually where the rejection is based on a combination of teachings:

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant also argues that a cable system has a greater possibility of failure. However, one skilled in the art would use a cable of sufficient strength (there are cables that anchor battleships, and cables used on roadside guards to stop entire automobiles from crossing medians and going over embankments; the skilled artisan would use a cable sufficiently strong for this situation so that failure is not a concern; as noted above, the combination of references is not a bodily incorporation of parts).

Similarly, as the combination of teachings is not a bodily incorporation of parts, there would be sufficient room designed into the system for Vollmer et al's seats to translate back in regard to the rear seats.

As noted above also, throughout column 1, Vollmer et al teaches the desirability of using cables for safety systems, which is a suggestion, teaching and/or incentive supporting the combination, not hindsight (page 7 of remarks).

Regarding applicant's argument that there is not a guide around which the cable is drawn back, in Vollmer et al there would be a guide at the right angle of the cables 15' 16' nearest the transverse center of the vehicle in Figure 1 around which the cables would be drawn back toward the rear of the vehicle inasmuch as applicant's guide as broadly recited.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703/746-3508 for regular communications and 703/308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth
Primary Examiner
Art Unit 3616



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February 10, 2004